

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PAUL ADAO,

Plaintiff,

- against -

AMERICAN BROADCASTING COMPANIES, INC.

Defendant.

Docket No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Paul Adao (“Adao” or Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant American Broadcasting Companies, Inc. (“ABC” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted video of politician and former member of the United States House of Representatives Anthony Weiner owned and registered by Adao, a New York City based visual journalist. Accordingly, Adao seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Adao is a professional visual journalist in the business of licensing his photographs and videos to online, print, and television stations for a fee, having a usual place of business at 300 West 110<sup>th</sup> Street, Apt. 15G, New York, NY 10026. Adao was the co-founder of New York News Service, Inc. an international photo, video and feature agency that supplied editorial material to major domestic and international publications and television markets. Adao specializes in taking candid photographs and video footage of celebrities and owns a large and exclusive archive of photographs and video footage of John F. Kennedy Jr. and Jackie Kennedy Onassis.

6. Upon information and belief, ABC is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business at 77 West 66<sup>th</sup> Street, New York, NY 10023. Upon information and belief, ABC is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, ABC has produced the television program, *ABC World News*, that is broadcasted on ABC affiliates around the United States.

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Video**

7. In July 2013, during Anthony Weiner's New York City mayoral campaign his spokeswoman and press secretary Barbara Morgan went on a tirade calling campaign intern Olivia Nuzzi numerous expletives after Nuzzi wrote an article about her experiences working for

the campaign. The incident was not only heavily covered by the press in New York City, but it also gained national attention.

8. On or about July 31, 2013, Adao captured a video of Weiner walking to his car candidly replying “You Bet” in response to Adao’s question if Morgan was still working for the campaign (“the Video”).

9. Adao then licensed the Video to the New York Post. On July 31, 2013, the New York Post ran an article that featured the Video on its web edition entitled, *Anthony Weiner stands by spokeswoman who went on rant calling ex-intern a ‘f-king slutbag’, a ‘tw-t’ and a ‘cut’*. See <http://nypost.com/2013/07/31/anthony-weiner-stands-by-spokeswoman-who-went-on-rant-calling-ex-intern-a-f-king-slutbag-a-tw-t-and-a-cu-t/> (last visited March 7, 2016).

10. Adao is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

11. The Video was registered with Copyright Office and was given Copyright Registration Number PA0001868272 (*Anthony Weiner: You Bet*), effective October 28, 2013.

**B. Defendant’s Infringing Activities**

12. Upon information and belief, on or about July 31, 2013, during its live telecast of *ABC World News*, ABC publically displayed the Video. Upon information and belief, ABC produced the telecast. ABC did not license the Video from Plaintiff for its use during the telecast nor did it have Plaintiff’s permission or consent to display the Video during its telecast.

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST ABC)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. ABC infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Video during its telecast of *ABC World News* on or about July 31, 2013. ABC is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Video.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by ABC have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Video, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That ABC be adjudged to have infringed upon Plaintiff's copyright in the Video in violation of 17 U.S.C §§ 106 and 501;



2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Video; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That ABC be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
March 7, 2016

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